

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1167**

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**Introduced by Assembly Member Nava**

February 23, 2007

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*An act to amend Section 3011, and to add Section 3012.7 to Sections 3012.5 and 3012.6 to, the Elections Code, and making an appropriation therefor, relating to voting.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1167, as amended, Nava. Absentee ballots: voting by mail.

(1) Existing law authorizes eligible voters to vote by absentee ballot and to become permanent absentee voters upon satisfying specified application requirements. Existing law provides that if the elections official deems the applicant to be entitled to an absent voter's ballot, the elections official shall deliver the ballot by mail, *as specified*, or in person to the applicant, his or her spouse, or his or her parent if the applicant is unmarried.

Existing law also authorizes a local, special, or consolidated election to be conducted wholly by mail if the governing body of the local agency authorizes the use of all mailed ballots for the election, the election is held on an established mailed ballot election date, and the election meets certain other specified requirements.

~~This bill would require that absentee ballots and the return envelope provided in any state or federal election contest not require more than one first-class stamp or the equivalent postage to be returned. The bill would require the county elections official, whenever he or she determines that an absentee ballot will require more than one first-class stamp or the equivalent postage to be returned, to notify the Secretary~~

of State. ~~By increasing the duties of local elections officials, the bill would impose a state-mandated local program.~~

*This bill would require every absentee ballot identification envelope to identify, among other things, the number of first-class stamps or the equivalent postage a voter is required to affix in order to return the absentee ballot.*

The bill would also require ~~the Secretary of State~~ *an elections official* to negotiate with the United States Postal Service to ensure that all absentee ballots with at least one first-class stamp or the equivalent postage will be delivered to the ~~county~~ elections official, *regardless of whether sufficient postage is affixed. The bill would require the Secretary of State, within 159 days of a statewide election, to report to the Legislature the total number of absentee ballots delivered to elections officials. For this purpose, the bill would establish the Absentee Voter Postage Fund a continuously appropriated fund, and would authorize moneys deposited in the fund, to be allocated to the United States Postal Service to cover the actual cost of absentee ballots that are delivered with insufficient postage.*

*The bill would also require an elections official, no later than 43 days prior to a statewide election, to report to the Secretary of State the status of his or her negotiations with the United States Postal Service regarding the delivery of absentee ballots, the number of first-class stamps or the equivalent postage required to return an absentee ballot envelope, and if more than one first-class stamp is required, the elections official's plan to inform voters of the additional required postage and a summary of factors that impacted the additional required postage. The bill would require the Secretary of State, no later than 36 days prior to a statewide election, to post on the Secretary of State's Web site the information provided by the local elections official and to update the information, as specified.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains unreimbursed costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 3011 of the Elections Code is amended*  
2     *to read:*

3     3011. (a) The identification envelope shall contain all of the  
4     following:

5         (1) A declaration, under penalty of perjury, stating that the voter  
6     resides within the precinct in which he or she is voting and is the  
7     person whose name appears on the envelope.

8         (2) The signature of the voter.

9         (3) The residence address of the voter as shown on the affidavit  
10    of registration.

11        (4) The date of signing.

12        (5) A notice that the envelope contains an official ballot and is  
13    to be opened only by the canvassing board.

14        (6) A warning plainly stamped or printed on it that voting twice  
15    constitutes a crime.

16        (7) A warning plainly stamped or printed on it that the voter  
17    must sign the envelope in his or her own handwriting in order for  
18    the ballot to be counted.

19        (8) A statement that the voter has neither applied, nor intends  
20    to apply, for an absentee voter's ballot from any other jurisdiction  
21    for the same election.

22        (9) The name of the person authorized by the voter to return the  
23    absentee ballot pursuant to Section 3017.

24        (10) The relationship to the voter of the person authorized to  
25    return the absentee ballot.

26        (11) The signature of the person authorized to return the absentee  
27    ballot.

28        (12) *The number of first-class stamps or the equivalent postage*  
29    *a voter must affix in order to return the absentee ballot.*

30        (b) Except at a primary election for partisan office, and  
31    notwithstanding any other provision of law, the absentee voter's  
32    party affiliation may not be stamped or printed on the identification  
33    envelope.

34     ~~SECTION 1. Section 3012.7 is added to the Elections Code,~~  
35     ~~to read:~~

36     ~~3012.7. (a) Absentee ballots and the return envelope provided~~  
37     ~~in any state or federal election contest shall not require more than~~  
38     ~~one first-class stamp or the equivalent postage to be returned.~~

1 Whenever the county elections official determines that an absentee  
2 ballot will require more than one first-class stamp or the equivalent  
3 postage to be returned, he or she shall notify the Secretary of State.  
4 The Secretary of State shall negotiate with the United States Postal  
5 Service to ensure that all absentee ballots with at least one  
6 first-class stamp or the equivalent postage will be delivered to the  
7 county elections official.

8 (b) ~~The Absentee Voter Postage Fund is hereby established in~~  
9 ~~the State Treasury. Notwithstanding Section 13340 of the~~  
10 ~~Government Code, moneys in the Absentee Voter Postage Fund~~  
11 ~~are hereby continuously appropriated to the elections official, as~~  
12 ~~defined in Section 320, in each county and shall be expended~~  
13 ~~without regard to fiscal years for the payment of expenses incurred~~  
14 ~~by the United States Postal Service pursuant to this section. All~~  
15 ~~funds appropriated by the Legislature to cover the actual cost of~~  
16 ~~absentee voter ballots that are delivered with insufficient postage~~  
17 ~~shall be deposited into this fund.~~

18 SEC. 2. ~~Notwithstanding Section 13340 of the Government~~  
19 ~~Code, there is hereby continuously appropriated from the General~~  
20 ~~Fund, for purposes of Section 3012.5 of the Elections Code, a sum~~  
21 ~~of money necessary to carry out that section, appropriated without~~  
22 ~~regard to fiscal years.~~

23 SEC. 2. *Section 3012.5 is added to the Elections Code, to read:*

24 3012.5. (a) *The elections official shall negotiate with the*  
25 *United States Postal Service to ensure that all absentee ballots in*  
26 *any statewide election will be delivered to the elections official*  
27 *regardless of whether sufficient postage is provided.*

28 (b) *Within 159 days of every statewide election, the Secretary*  
29 *of State shall report to the Legislature the total number of absentee*  
30 *ballots delivered to elections officials.*

31 SEC. 3. *Section 3012.6 is added to the Elections Code, to read:*

32 3012.6. (a) *No later than 43 days prior to any statewide*  
33 *election, the elections official shall report to the Secretary of State*  
34 *all of the following:*

35 (1) *The status of negotiations with the United States Postal*  
36 *Service as provided for in Section 3012.5. If the elections official*  
37 *has not completed the requirements of Section 3012.5, he or she*  
38 *shall report daily to the Secretary of State until he or she has fully*  
39 *complied with that section.*

1     (2) *The number of first-class stamps or the equivalent postage*  
2 *a voter is required to affix in order to return an absentee ballot in*  
3 *his or her county. If the elections official determines that more*  
4 *than one first-class stamp or the equivalent postage is required to*  
5 *return an absentee ballot, the elections official shall provide the*  
6 *following:*

7     (A) *A plan to inform voters of the number of first-class stamps*  
8 *or the equivalent postage that must be affixed in order to return*  
9 *an absentee ballot.*

10    (B) *A summary of factors that impacted the postage required.*

11    (b) *No later than 36 days prior to the election, the Secretary of*  
12 *State shall make available the information required by this section*  
13 *on the Secretary of State's Web site. The Secretary of State shall*  
14 *regularly update the information to reflect reporting submitted*  
15 *pursuant to paragraph (1) of subdivision (a).*

16    ~~SEC. 3.~~

17    SEC. 4. *If the Commission on State Mandates determines that*  
18 *this act contains unreimbursed costs mandated by the state,*  
19 *reimbursement to local agencies and school districts for those costs*  
20 *shall be made pursuant to Part 7 (commencing with Section 17500)*  
21 *of Division 4 of Title 2 of the Government Code.*